

AMENDED IN ASSEMBLY SEPTEMBER 4, 2009

AMENDED IN ASSEMBLY AUGUST 24, 2009

AMENDED IN SENATE MAY 6, 2009

SENATE BILL

No. 586

Introduced by Senator Yee

February 27, 2009

~~An act to add Section 19622.5 to the Business and Professions Code, and to add Section 11011.27 to the Government Code, relating to state property, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately. An act to add Sections 3853.1 and 3853.2 to the Food and Agricultural Code, relating to agricultural districts, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 586, as amended, Yee. ~~State property: sale. Agricultural districts: Cow Palace: sale.~~

(1) Existing law provides that the state is divided into agricultural districts within the boundaries of which district agricultural associations may be formed. Existing law provides that District 1a is the County of San Mateo and the City and County of San Francisco.

This bill would create District 1b, which consists of all of that real property that is a portion of District 1a that is commonly known as the Cow Palace, and would prescribe certain matters applicable to officers of District 1a and District 1b. The bill would, among other things, (A) authorize the Department of General Services to dispose of all or any portion of the real property that composes District 1b pursuant to a public bidding process, as provided, (B) prohibit District 1b from entering into any contract, lease, or other agreement affecting the use

or operation of that real property for a period that exceeds 3 months, (C) require those contracts, leases, or agreements to contain a certain cancellation notice, (D) authorize the department to be reimbursed for reasonable costs or expenses, (E) authorize bonds involving District 1b property to be paid from the proceeds of any disposition of District 1b property, (F) require the Director of General Services to report specified information to the chairs of the fiscal committees of the Legislature 30 days prior to executing a transaction for the disposition of the real property, (G) require the director to include a reservation to the state of mineral rights in the disposition of the real property, (H) require the net disposition proceeds to be deposited into the District 1b Disposition Fund, which the bill would create in the State Treasury, and (I) require the department to report annually to the Legislature on the status of the disposition of the real property.

This bill would require District 1b to be abolished and all funds in the District 1b Disposition Fund to be transferred to the General Fund upon sale of all property that composes District 1b.

This bill would also declare the Legislature's findings that the disposition of this state property does not constitute a sale of surplus state property, as set forth in specified existing law.

(2) The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA generally requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA also provides some exemptions from its requirements for specified projects.

This bill would exempt the disposition of the state real property or buildings subject to the bill that is made on an "as is" basis from designated provisions of CEQA. The bill would also exempt from those provisions of CEQA the execution of the purchase and sale agreement or the exchange agreement for this property or these buildings if the disposition is not made on an "as is" basis and the close of escrow is contingent on a specified requirement and compliance with CEQA.

(3) *This bill would authorize the Director of Finance to provide a General Fund loan in the amount of \$500,000 to a certain item of the Budget Act, which relates to the Department of General Services, and to adjust the amounts appropriated in that item that are provided for the purposes of supporting the management of the state's real property assets in order to accommodate any increase in workload or other costs to the Department of General Services to implement this bill. By authorizing adjustments to certain appropriated amounts in the Budget Act, the bill would make an appropriation.*

~~Existing law authorizes the Director of General Services to dispose of state surplus property, subject to specified conditions, including authorization by the Legislature.~~

~~This bill would require the director, prior to January 1, 2012, to sell, at fair market value, upon those terms and conditions determined by the director, a specified parcel of state property located in the County of San Mateo and the City and County of San Francisco to any interested party.~~

~~The bill would provide that the net proceeds of the conveyance would be paid into the Fair and Exposition Fund, a continuously appropriated fund, for the benefit of a specified district agricultural association, as provided, thereby making an appropriation. The bill would require reimbursement to the Department of General Services for any cost or expense incurred in the disposition of the property. This bill would also declare the Legislature's findings that the sale of this state property does not constitute a sale of surplus state property, as set forth in specified existing law.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 3853.1 is added to the Food and*
- 2 *Agricultural Code, to read:*
- 3 *3853.1. There is hereby created District 1b which consists of*
- 4 *all of that real property that is a portion of District 1a that is*
- 5 *commonly known as the Cow Palace located in Daly City and the*
- 6 *City and County of San Francisco. Notwithstanding any other law,*
- 7 *any officer of District 1b may also be an officer of District 1a and*

1 *shall be a resident of District 1a. All otherwise applicable ethical*
2 *duties, including those in Section 1090 of the Government Code,*
3 *subdivision (a) of Section 8920 of the Government Code, and the*
4 *Political Reform Act of 1974 (Title 9 (commencing with Section*
5 *81000) of the Government Code), shall apply to the officers of*
6 *both District 1a and District 1b, and shall apply in regard to the*
7 *transactions contemplated by Section 3853.2.*

8 *SEC. 2. Section 3853.2 is added to the Food and Agricultural*
9 *Code, to read:*

10 *3853.2. (a) The District 1b Disposition Fund is hereby created*
11 *in the State Treasury.*

12 *(b) (1) The Department of General Services may dispose all or*
13 *any portion of the real property that composes District 1b. District*
14 *1b shall not enter into any contract, lease, or other agreement*
15 *affecting the use or operation of the real property for a period that*
16 *exceeds three months, and all of these contracts, leases, or other*
17 *agreements shall contain a provision that they can be canceled*
18 *upon a 30-day notice from the Department of General Services.*
19 *The Department of General Services shall be reimbursed for any*
20 *reasonable cost or expense incurred for the transactions described*
21 *in this section.*

22 *(2) Additionally to the requirements of paragraph (1), to the*
23 *extent bonds issued by the State Public Works Board or other entity*
24 *involve the property to be disposed of pursuant to this section, all*
25 *issuer and trustee related costs associated with the review of any*
26 *proposed disposition, together with the costs related to the*
27 *defeasance or retirement of any bonds, which may include the cost*
28 *of nationally recognized bond counsel, shall be paid from the*
29 *proceeds of any disposition authorized by this section. The net*
30 *proceeds from the disposition shall be deposited into the District*
31 *1b Disposition Fund.*

32 *(c) The disposition of the real property authorized by this section*
33 *shall be pursuant to a public bidding process designed to obtain*
34 *the highest, most certain return for the state from a responsible*
35 *bidder, and any transaction based on such a bidding process shall*
36 *be deemed to be the fair market value for the property. A notice*
37 *of this bidding process shall be posted by the Department of*
38 *General Services on its Internet Web site for at least 30 days prior*
39 *to the disposition of the real property. The provisions of Section*

1 11011.1 of the Government Code are not applicable to the
2 disposition of real property authorized under this section.

3 (d) Thirty days prior to executing a transaction for the
4 disposition of real property authorized by this section, the Director
5 of General Services shall report to the chairs of the fiscal
6 committees of the Legislature all of the following:

7 (1) The financial terms of the transaction.

8 (2) A comparison of fair market value for the real property and
9 the terms listed in paragraph (1).

10 (3) Any basis for agreeing to terms and conditions other than
11 fair market value.

12 (e) As to the real property disposed of pursuant to this section,
13 the Director of General Services shall except and reserve to the
14 state all mineral deposits, as defined in Section 6407 of the Public
15 Resources Code, together with the right to prospect for, mine, and
16 remove the deposits. If, however, the Director of General Services
17 determines that there is little or no potential for mineral deposits,
18 the reservation may be without surface right of entry above a depth
19 of 500 feet, or the rights to prospect for, mine, and remove the
20 deposits shall be limited to those areas of the real property
21 conveyed that the director determines to be reasonably necessary
22 for the removal of the deposits.

23 (f) The Department of General Services shall report to the
24 Legislature on or before June 30 of each year on the status of the
25 disposition of real property authorized by this section.

26 (g) Upon the disposition of all property that composes District
27 1b, District 1b shall be abolished and all funds in the District 1b
28 Disposition Fund shall be transferred to the General Fund.

29 (h) (1) The disposition of state real property or buildings
30 specified in subdivision (b) that are made on an “as is” basis shall
31 be exempt from Chapter 3 (commencing with Section 21100) to
32 Chapter 6 (commencing with Section 21165), inclusive, of Division
33 13 of the Public Resources Code. Upon title to the parcel vesting
34 in the purchaser or transferee of the property, the purchaser or
35 transferee shall be subject to any local governmental land use
36 entitlement approval requirements and to Chapter 3 (commencing
37 with Section 21100) to Chapter 6 (commencing with Section
38 21165), inclusive, of Division 13 of the Public Resources Code.

39 (2) If the disposition of state real property or buildings specified
40 in subdivision (b), is not made on an “as is” basis and close of

1 *escrow is contingent on the satisfaction of a local governmental*
2 *land use entitlement approval requirement or compliance by the*
3 *local government with Chapter 3 (commencing with Section 21100)*
4 *to Chapter 6 (commencing with Section 21165), inclusive, of*
5 *Division 13 of the Public Resources Code, the execution of the*
6 *purchase and sale agreement or of the exchange agreement by all*
7 *parties to the agreement shall be exempt from Chapter 3*
8 *(commencing with Section 21100) to Chapter 6 (commencing with*
9 *Section 21165), inclusive, of Division 13 of the Public Resources*
10 *Code.*

11 (3) *For the purposes of this section, “disposition” means the*
12 *sale, lease, exchange, or repurchase of state property or buildings*
13 *specified in subdivision (b).*

14 (i) *The disposition of real property or buildings, or both,*
15 *pursuant to this section does not constitute a sale or other*
16 *disposition of state surplus property within the meaning of Section*
17 *9 of Article III of the California Constitution and shall not be*
18 *subject to subdivision (g) of Section 11011 of the Government*
19 *Code.*

20 SEC. 3. *The Legislature finds and declares that Article 4*
21 *(commencing with Section 1090) of Chapter 1 of Division 4 of*
22 *Title 1 of the Government Code applies to every transaction*
23 *undertaken pursuant to the authority of this act.*

24 SEC. 4. *The Director of Finance may provide a General Fund*
25 *loan in the amount of five hundred thousand dollars (\$500,000)*
26 *to augment Item 1760-001-0002 of Section 2.00 of the Budget Act*
27 *of 2009 and may adjust the amounts appropriated in Item*
28 *1760-001-0002 of Section 2.00 of the Budget Act of 2009 that are*
29 *provided for the purposes of supporting the management of the*
30 *state’s real property assets in order to accommodate any increase*
31 *in workload or other costs to the Department of General Services*
32 *to implement this act.*

33 ~~SECTION 1. Section 19622.5 is added to the Business and~~
34 ~~Professions Code, to read:~~

35 ~~19622.5. Pursuant to subdivision (c) of Section 19622.3,~~
36 ~~within 30 days of enactment of this section, the Department of~~
37 ~~Food and Agriculture, until January 1, 2010, shall assume only~~
38 ~~the rights, duties, and powers of the board of directors of the~~
39 ~~District 1-A Agricultural Association associated with negotiating~~

~~the sale of the real property of the District 1-A Agricultural Association.~~

~~SEC. 2. Section 11011.27 is added to the Government Code, to read:~~

~~11011.27. (a) The Director of General Services in consultation with the Department of Food and Agriculture, prior to January 1, 2012, shall enter into negotiations to sell, at fair market value with an all-cash sale or cash equivalent without any conditions relating to entitlements, to any interested third party, upon those terms and conditions and subject to those reservations and exceptions that the director determines are in the best interests of the state, the following real property:~~

~~Parcel A: Beginning at a point on the southerly line of Walbridge Street, now Geneva Avenue, with the easterly line of Carter Street (in the City and County of San Francisco); thence running easterly along the southerly line of Walbridge Street 980 feet; thence at a right angle south 19°35' west 600 feet; thence at a right angle north 70°25' west 720 feet; thence at a right angle south 19°35' west 60 feet; thence at a right angle north 70°25' west 260 feet; thence at a right angle north 19°35' east 660 feet along the easterly line of Carter Street to the point of beginning.~~

~~(b) A notice of every public auction or bid opening shall be posted on the parcel to be sold pursuant to this section and shall be published in a newspaper of general circulation published in the county in which the real property to be sold is situated.~~

~~(c) Notwithstanding the terms and conditions negotiated pursuant to subdivision (a), the director shall not sell the property identified in subdivision (a) for less than its fair market value.~~

~~(d) Fair market value shall be evaluated at the highest and best use of the property as entitled with its existing zone designation, generally required for all real estate appraisals and as governed by the Uniform Standards of Professional Appraisal Practice (USPAP).~~

~~(e) An agreement for the sale of the property identified in subdivision (a) shall require a purchaser to develop the property for uses consistent with the general plan of the City of Daly City, any amendment to that general plan, any specific plan amendments to any specific plan, and the Bayshore Revitalization Redevelopment Plan.~~

1 ~~(f) The Department of General Services shall be reimbursed~~
2 ~~from the sale proceeds for any cost or expense incurred in the~~
3 ~~disposition of the property described in subdivision (a).~~

4 ~~(g) The net proceeds of any moneys received from the~~
5 ~~disposition of any parcel of property described in subdivision (a)~~
6 ~~shall be paid into the Fair and Exposition Fund for the benefit of~~
7 ~~the District 1-A Agricultural Association.~~

8 ~~SEC. 3. The Legislature finds and declares that the disposition~~
9 ~~of state property authorized in Section 2 of this act does not~~
10 ~~constitute a sale or other disposition of surplus state property as~~
11 ~~set forth in Section 9 of Article III of the California Constitution~~
12 ~~or subdivision (g) of Section 11011 of the Government Code.~~

13 ~~SEC. 4. This act is an urgency statute necessary for the~~
14 ~~immediate preservation of the public peace, health, or safety within~~
15 ~~the meaning of Article IV of the Constitution and shall go into~~
16 ~~immediate effect. The facts constituting the necessity are:~~

17 ~~In order for the Director of General Services to sell the property~~
18 ~~described in Section 2 of this act at the earliest possible time, it is~~
19 ~~necessary that this act take effect immediately.~~